



3727-41

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Robert R. Gray )  
Serial No: 10/068,575 ) ART UNIT: 3727  
Filed : February 2, 2002 ) Examiner: Stephen J. Costellano  
For: TRASH RECEPTACLE WITH SUCTION MEANS FOR DRAWING)  
A FLEXIBLE BAG LINER AGAINST ITS INTERIOR WALLS)

The Hon. Commissioner For Patents  
P.P. Box 1450  
Alexandria, VA 22303-1450

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AUG 03 2004  
TECHNOLOGY CENTER R3700

July 22, 2004

Sir:

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT  
AND  
REQUEST FOR MODIFICATION

This response is accompanied by a Certificate Of Mailing and is in response to the Office Action dated June 23, 2004, requiring restriction of the invention, and election of a single disclosed species for prosecution on the merits.

The Examiner has categorized applicant's invention into two groups and has required restriction to one of the following groups:

Group I, Claims 1-14, drawn to a trash receptacle, or

Group II, Claims 15-20, drawn toward a method of use.

Applicant hereby elects Group II, Claims 15-20, drawn toward the method of use, for examination purposes.

The Examiner has indicated that the application contains claims directed toward patently distinct species of the claimed invention, and has required election to one of the following species:

Specie A: Fig. 1A;

Specie B: Fig. 4;

Specie C: Fig. 7;

Specie D: Fig. 8;

Specie E: Fig. 9; and

Specie F: Fig. 10 and 11.

The Examiner also stated that, currently, claims 1 and 15 appear to be generic, and required a listing of all claims readable on the elected species.

In order to comply with the requirement, Applicant hereby provisionally elects the species of (A) Fig. 1A, with traverse. In addition, it is submitted that claims 15, 16, 18, and 20 read on the provisionally elected species of (A).

#### TRAVERSAL AND REQUEST FOR MODIFICATION OF REQUIREMENT

The election of species requirement is respectfully submitted to be improper with respect to the separate groupings of Species, for the following reasons. Applicant's agent submits that claims 15 and 16, which read on the provisionally elected species of (A), are generic claims, and also read on the species of (B), (C), (D), (E), and (F).

All of the Species (A) through (F) include the step of extracting air trapped between exterior surfaces of the empty liner and interior surfaces of the central chamber to create a vacuum therebetween sufficient to eliminate air pockets and billowing and draw the empty liner against the interior surfaces of the receptacle in a full open position, as recited in claim 15.

All of the Species (A) through (F) include the method recited in claim 16 which further defines the step of extracting air as reducing the pressure of air trapped between the exterior surfaces of the liner and interior surfaces of the receptacle to a pressure sufficiently lower than ambient air inside the empty liner.

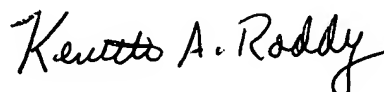
The species of (B) through (F) differs from the provisionally elected species (A) merely in the manner in which the pressure of air trapped between the exterior surfaces of the liner and interior surfaces of the receptacle are reduced to a pressure sufficiently lower than ambient air inside the empty liner.

It is believed that Species (B) through (F) (Figs. 4, 7, 8, 9, 10 and 11) (corresponding to method claims 15 and 16) would be obvious variants, and would not be patentable over the species of (A) if they were the subject of a separate application, and therefore not patentably distinct.

Therefore, Applicant's agent respectfully requests that the species of (B) through (F) (claims 15 and 16) be grouped with species (A).

Accordingly, in view of the foregoing, it is respectfully requested that the requirement regarding the election of species be modified as set forth above, and that Species (B) through (F) (Figs. 4, 7, 8, 9, 10 and 11) (corresponding to method claims 15 and 16) also be considered for prosecution on the merits.

Respectfully submitted,

A handwritten signature in black ink, reading "Kenneth A. Roddy". The signature is written in a cursive, flowing style.

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July 22, 2004

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Sir:

Transmitted herewith for filing in the patent application of **ROBERT R. GRAY**, Serial No. **10/068,575** is a **RESPONSE TO RESTRICTION/ELECTION REQUIREMENT**.

Respectfully submitted,

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Encls

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**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

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